

AMENDED IN ASSEMBLY MARCH 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 42

Introduced by Assembly Member Perea
(Coauthor: Assembly Member Gray)

December 7, 2012

An act to amend Section 17144.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 42, as amended, Perea. Taxation: cancellation of indebtedness: mortgage debt forgiveness.

The Personal Income Tax Law conforms to specified provisions of the federal Mortgage Forgiveness Debt Relief Act of 2007, as amended by the federal Emergency Economic Stabilization Act of 2008, federal law relating to the exclusion of the discharge of qualified principal residence indebtedness, as defined, from an individual's income if that debt is discharged after January 1, 2007, and before January 1, 2013, as provided. *The federal American Taxpayer Relief Act of 2012 extended the operation of those provisions to debt that is discharged before January 1, 2014.*

~~This bill would make findings and declarations regarding mortgage debt forgiveness and would state the intent of the Legislature to enact legislation that would conform to federal law with regard to any extension of the exclusion described above.~~

This bill would conform to the federal extension.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17144.5 of the Revenue and Taxation*
2 *Code is amended to read:*

3 17144.5. (a) Section 108(a)(1)(E) of the Internal Revenue
4 Code, is modified to provide that the amount excluded from gross
5 income shall not exceed \$500,000 (\$250,000 in the case of a
6 married individual filing a separate return).

7 (b) Section 108(h)(2) of the Internal Revenue Code, is modified
8 by substituting the phrase “(within the meaning of section
9 163(h)(3)(B), applied by substituting ‘\$800,000 (\$400,000’ for
10 ‘\$1,000,000 (\$500,000’ in clause (ii) thereof)” for the phrase
11 “(within the meaning of section 163(h)(3)(B), applied by
12 substituting ‘\$2,000,000 (\$1,000,000’ for ‘\$1,000,000 (\$500,000’
13 in clause (ii) thereof)” contained therein.

14 (c) *The amendments made by Section 202 of the American*
15 *Taxpayer Relief Act of 2012 to Section 108 of the Internal Revenue*
16 *Code shall apply.*

17 (e)

18 (d) This section shall apply to discharges of indebtedness
19 occurring on or after January 1, 2007, and, notwithstanding any
20 other law to the contrary, no penalties or interest shall be due with
21 respect to the discharge of qualified principal residence
22 indebtedness during the 2007 or 2009 taxable year regardless of
23 whether or not the taxpayer reports the discharge on his or her
24 return for the 2007 or 2009 taxable year.

25 *SEC. 2. This act provides for a tax levy within the meaning of*
26 *Article IV of the Constitution and shall go into immediate effect.*

27 ~~SECTION 1. The Legislature finds and declares all of the~~
28 ~~following:~~

29 ~~(a) A homeowner can lose his or her job or become seriously~~
30 ~~ill and then be unable to pay the monthly mortgage. In the resulting~~
31 ~~short sale or foreclosure, the homeowner not only loses his or her~~
32 ~~home, but may also be taxed on relief of indebtedness income that~~
33 ~~the homeowner did not receive.~~

34 ~~(b) If the homeowner refinances his or her mortgage, as many~~
35 ~~homeowners do, the nature of the debt is changed and the~~
36 ~~homeowner may be personally liable for the payment of that debt.~~

1 ~~(e) Absent an extension of the debt forgiveness protections~~
2 ~~beyond this year, homeowners will again be subject to taxation on~~
3 ~~income they never actually received.~~

4 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~
5 ~~that would extend the operation of Section 17144.5 of the Revenue~~
6 ~~and Taxation Code, relating to the exclusion of the discharge of~~
7 ~~qualified principal residence indebtedness from an individual's~~
8 ~~income, to conform to any federal legislation that extends the~~
9 ~~operation of this exclusion in federal income tax law.~~